



WHAT YOU NEED TO KNOW ABOUT EMPLOYER REQUESTS

Requests for Adjustments to Military Service

Employers may request an adjustment to an employee's period of uniformed service when the Service member's absence imposes an adverse impact on an employer, such as a financial or operational hardship. Commanders are to consider written requests to adjust periods of uniformed service. However, it is at the commander's discretion whether to accommodate a request based on military necessity. If unable to accommodate an employer request, commanders should communicate their decision and justification clearly to the employer (DoDI 1205.12).

Commanders may delegate this responsibility. The designated representative must be someone with the discretion to delay, defer, cancel, or reschedule military service, so long as it does not negatively affect military operations; and to make arrangements, other than adjusting the period of service, when it serves in the best interest of the military and is reasonable to do so (DoDI 1205.12).

Verification of Military Service

DoDI 1205.12 directs the Military Departments to provide employers with verification of an employee's uniformed service upon request, regardless of the duration of the service related absence.

One example of verification of service is an email from a commander or designated military authority certifying the service was, or was not performed on the dates in question. For more information, review the Employer Information and Assistance section of DoDI 1205.12.

For further information about employer requests related to a Service member's uniformed service, contact ESGR at 800-336-4590, option 1.

5-Year Service Limit Determination

The DoD has established a process for Service members and their employers to request a determination as to which periods of service count toward, or are exempt from USERRA's five-year service limit. Offices of responsibility for each Reserve Component will evaluate and respond to requests, and if appropriate, will forward requests to the appropriate authority for further consideration.

The authority for certifying an exemption based on a critical mission or requirement cannot be delegated below the Assistant Service Secretary level (DoDI 1205.12).

The office of responsibility for each Reserve Component, links to USERRA, and links to DoD policy guidance related to this fact sheet are listed on the ESGR website at: <https://esgr.mil/Employers/Military-Service-Requirement-Support>.

UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT (USERRA)

Service Members

In general, if the employee is absent from a position of civilian employment by reason of service in the uniformed services, he or she is eligible for reemployment under USERRA by meeting the following criteria:

- The employer was given advance notice of the employee's service
- The employee returns to work in accordance with USERRA guidelines
- The employee has not been separated from service with a disqualifying discharge, or under other than honorable conditions
- The employee was not absent from the employer for more than five cumulative years, minus any time exempted under USERRA

Employers

The law applies to all public and private employers in the United States, including federal, state and local governments, regardless of size. Provided the Service member meets all criteria, USERRA requires employers to do the following:

- Allow employees to participate in military service
- Promptly reinstate employee into appropriate position following military service
- Provide accumulated seniority and benefits, including pension plan benefits
- Reinstate health insurance
- Provide training or retraining of job skills, including accommodations for the disabled
- Protect the employee against discrimination and retaliation



USERRA

USERRA is the federal law that establishes rights and responsibilities for members of the Guard and Reserve and their civilian employers. USERRA provides protections for Service members related to initial hiring, employment, reemployment, retention and employment benefits, when employees serve, apply to serve, or have served in the uniformed services.

USERRA Questions

ESGR's customer service center operates Monday through Friday from 8am to 6pm Eastern Time to provide answers to USERRA questions, or refer cases to a trained ombudsman.

Call our customer service center at 1-800-336-4590 or complete a USERRA Assistance Request Form at www.ESGR.mil.

ESGR & USERRA

ESGR informs and educates Service members and their civilian employers regarding their rights and responsibilities governed by USERRA.

ESGR does not enforce USERRA, but serves as a neutral, free resource for employers and Service members.

ESGR's trained ombudsmen provide informal mediation of employment and reemployment issues related to USERRA implementation.

Department of Labor & USERRA

Congress provided the statutory authority for investigating alleged violations of USERRA to the U.S. Department of Labor (DOL).

If DOL finds that an employer has likely violated USERRA and is unable to secure voluntary compliance, DOL may refer the case to the U.S. Department of Justice or the Office of Special Counsel, as appropriate, for legal action against the employer.

